

February 3, 2022

BY ECF – VIA FEDERAL DEFENDERS

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

**RE: United States v. Michael Avenatti
19 Cr. 374 (JMF)**

Dear Judge Furman:

Defendant moves for a mistrial due to this instruction given by the Court yesterday to the jury, which continues to deliberate as of this filing: “The misappropriation of clients’ funds is a particularly serious violation of a lawyer’s ethical duty of loyalty.” Tr. 1742.

This instruction constitutes improper commentary and opinion; suggests to the jury that defendant did in fact misappropriate money, which is a central issue in the case; and is highly prejudicial. It also transforms this criminal case into a determination of whether defendant violated his ethical duty of loyalty as opposed to a federal criminal statute. Accordingly, defendant moves for a mistrial.

Respectfully Submitted,

/s/

Michael J. Avenatti
Defendant